

REMARKS

Claims 28-46 have been canceled without prejudice or disclaimer. Claims 47-65 have been added and therefore are pending in the present application. Claims 47-65 are supported throughout the specification, including the original claims. For example, the % homologies recited in claims 47 and 48 are supported by page 6, lines 34-38 of the specification.

The Office Action made a restriction requirement between the following groups:

Group I – claims 28-39, 42 and 44-46 drawn to a process for producing a soluble starch hydrolysate;

Group II – claim 40 drawn to a process for the production of high fructose starch-based syrup; and

Group III – claims 41 and 43 drawn to a process for production of a fermentation product.

Applicants also were requested to elect an amino acid sequence of SEQ ID NO: 1, 2 or 3.

The restriction requirement is respectfully traversed.

The above-captioned application was entered into the national stage under 35 U.S.C. 371, *i.e.*, filed via the PCT. The standard for determining whether unity of invention exists during the national stage, *i.e.*, whether a restriction requirement may be imposed, is set forth in 37 C.F.R. 1.475(a) which provides:

An international and a national stage application shall relate to one invention only or to a group of inventions so linked as to form a single general inventive concept.... Where a group of inventions is claimed in an application, the requirement of unity of invention shall be fulfilled only when there is a technical relationship among those inventions involving one or more of the same or corresponding special technical features. The expression 'special technical features' shall mean those technical features that define a contribution which each of the claimed inventions, considered as a whole, makes over the prior art.

In the present case, the invention designated I is directed to a process for producing a starch hydrolysate and the inventions designated II and III are directed to a process for producing high fructose starch-based syrup or a fermentation product from a starch hydrolysate produced by the invention designated I. Thus, groups I, II and III are directed to inventions which form a single general inventive concept.

The Office contends that the technical feature of the inventions is taught by Jackson (EP 0171218) and Callen (WO 02/068589). This is respectfully traversed.

Neither Jackson nor Callen teaches or suggests a process for producing a soluble starch hydrolysate, comprising subjecting an aqueous granular starch slurry at a temperature below the initial gelatinization temperature of said granular starch to the action of an enzyme which is a member of the Glycoside Hydrolase Family 13; has alpha-1,4-glucosidic hydrolysis activity; and comprises a functional carbohydrate-binding module belonging to CBM Family 20, wherein the carbohydrate-binding module comprises an amino acid sequence having at least 90% homology to the amino acid sequence of SEQ ID NO: 2.

Moreover, no objection to unity of invention was raised at any point of the PCT prosecution by either the International Searching Authority or the International Preliminary Examining Authority.

Applicants also draw the Examiner's attention to U.S. application no. 10/877,007, in which the inventions designated I, II and III are being examined in a single application.

For the foregoing reasons, Applicants respectfully submit that the restriction requirement is improper, and respectfully request reconsideration and withdrawal thereof.

In order to be fully responsive, Applicants hereby elect the invention of Group I, and the amino acid sequence of SEQ ID NO: 2. Claims 47-60 read thereon. Applicants hereby reserve the right to file divisional applications directed to the nonelected subject matter.

The Examiner is hereby invited to contact the undersigned by telephone if there are any questions concerning this response or application.

Respectfully submitted,

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